

REMARKS

Claims 18-23 and 29-34 are pending in this application. The Applicant thanks the Examiner for allowance of claims 20, 21 and 29-34. In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable.

Claim 18 stands rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,500,158 to Ikeguchi. In support of the rejection, the Examiner states that Ikeguchi shows the invention substantially as claimed except for the second catheter, but that it would have been obvious to one of ordinary skill in the art to modify the system of Ikeguchi to include two catheters in order to provide for patients who need simultaneous treatment of both kidneys. 4/5/05 Office Action, p.3. The Applicant respectfully disagrees with the Examiner's argument.

Claim 18 recites an apparatus for isolating urine from a urinary bladder, comprising "*a first catheter* positionable in the patient's first ureter, the first catheter including a proximal end and a distal end, the proximal end of the first catheter including a ureter to catheter seal, the distal end of the first catheter being capable of passing through the patient urinary sphincter" and "*a second catheter* positionable in the patient's second ureter, the second catheter including a proximal end and a distal end, the proximal end of the second catheter including a ureter to catheter seal, the distal end of the second catheter being capable of passing through the patient urinary sphincter and the distal ends of the first and second catheters being capable of connection to an external urine collection container."

In contrast, Ikeguchi describes an apparatus for treating a single kidney by introducing a negative pressure thereto via a single catheter. The catheter 32 is inserted transurethrally through the bladder and up into the ureter 35. *Ikeguchi*, col. 5, lines 51-55. A balloon 38 coupled to a distal tip of the catheter 32 is inflated to occlude the ureter 35, and a proximal end of the catheter 32 is attached to a vacuum source 36 and a collection bottle 34. *Id.* at col. 5, lines 55-61. The

vacuum source 36 is used to apply the negative pressure to the kidney to increase a glomerular filtration rate. *Id.* at col. 5, lines 16-34, 56-63.

The Examiner has correctly recognized that Ikeguchi includes no showing or suggestion of the use of the apparatus on more than one kidney and Ikeguchi provides no motivation for such a modification. The single catheter 32 of Ikeguchi simply delivers a negative pressure to the kidney to reduce pressure in the Bowman's capsule. At no point does Ikeguchi suggest or provide the motivation for the addition of a second catheter in a second ureter. The Examiner simply states, without reference to Ikeguchi, that it would have been obvious to provide a catheter to each kidney simultaneously. However, as the Examiner has recognized, Ikeguchi makes no mention of this. In fact, Ikeguchi never refers to, the catheter in plural (e.g., the catheter(s)), or 'one or more catheters,' or simultaneous treatment of both kidneys. Further, Ikeguchi never suggests that simultaneous treatment would be more effective than serial application of the single catheter to the ureter, nor does Ikeguchi state or suggest that the simultaneous application of negative pressure to both kidneys would not be harmful.

The Examiner further asserts that the Applicant has not asserted a new and unexpected result which is achieved by simultaneously placing the first and second catheters in the first and second ureters, respectively. However, the present invention prevents urine from coming in contact with the bladder wall. This result would not be realized with the apparatus of Ikeguchi and can only be realized by isolating the flow from both ureters. That is, while using only the single catheter within one ureter, the other ureter would be free to allow urine to pass therethrough and into the bladder failing to obtain the benefit of the invention. Ikeguchi does not contemplate this new result achieved by the present invention.

Furthermore, it is respectfully submitted that a statement that the proposed modifications of the prior art would have been within the ordinary skill of the art at the time the claimed invention was made is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine or modify the teaching of the references. *MPEP 2143.01*; see also *In*

re Kotzab, 217 F.3d 1365, 1371 (Fed. Cir. 2000); *Al-Site Corp. v. VSI Int. Inc.*, 174 F.3d 1308 (Fed. Cir. 1999). It is respectfully submitted that the Examiner has not identified any objective reason, beyond a mere statement that it would have been obvious to one skilled in the art, to modify the Ikeguchi reference. Therefore, the Applicant respectfully submits that this § 103 rejection is improper and should be withdrawn.

Therefore, the Applicant respectfully submits that Ikeguchi neither discloses nor suggests “a first catheter positionable in the patient’s first ureter” and “a second catheter positionable in the patient’s second ureter,” as recited in claim 18.

Claim 19 stands rejected under 35 U.S.C. 103(a) as unpatentable over Ikeguchi in view of U.S. Patent No. 5,411,495 to Willingham. It is respectfully submitted that Willingham does not cure the above-described deficiencies of Ikeguchi. Thus, the Applicant respectfully submits that because claim 19 depends from, and, therefore includes all of the limitations of claim 18, claim 19 is also allowable.

Claim 23 stands rejected under 35 U.S.C. 103(a) as unpatentable over Ikeguchi in view of U.S. Patent No. 5,289,831 to Bosley. It is respectfully submitted that Bosley does not cure the above-described deficiencies of Ikeguchi. Thus, the Applicant respectfully submits that because claim 23 depends from, and, therefore includes all of the limitations of claim 18, claim 23 is also allowable.

Claim 22 stands objected to as depending from a rejected claim. It is respectfully submitted, that claim 22 which depends from, and, therefore includes all of the limitations of claim 18 is also allowable for the reasons stated above.

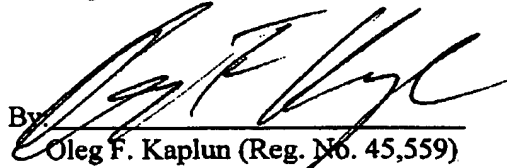
CONCLUSION

In light of the foregoing, the Applicant respectfully submits that all of the pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

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By



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